

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ERIC MCAFEE and MARGUERITE
MCAFEE,

Plaintiffs,

v.

PHH MORTGAGE CORP., MORGAN
STANLEY DELTA HOLDINGS, LLC,
and others,

Defendants.

Case No. 18-cv-05844 NC

**ORDER TO DEFENDANTS TO
SHOW CAUSE RE: SUBJECT
MATTER JURISDICTION**

Defendants removed this case from Santa Clara County Superior Court, asserting that this Court has subject matter jurisdiction over the case because there is diversity of citizenship under 28 U.S.C. § 1332(a)(1). ECF 1. The burden is on the removing defendants to establish jurisdiction. If jurisdiction is not established, then the case must be remanded back to state court. This is because the federal courts are courts of limited jurisdiction.

Here, defendants assert that diversity of citizenship is established because plaintiffs are both California citizens, while defendant PHH Mortgage Corp. is a New Jersey citizen, defendant Morgan Stanley Private Bank N.A. is a New York citizen, and defendant Morgan Stanley Delta Holdings LLC is incorporated in Delaware with its principal place

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1 of business in New York. Notice of Removal, ECF 1, at ¶¶ 4-7. But defendants are
2 applying the wrong legal standard for the Morgan Stanley Delta Holdings LLC (Limited
3 Liability Company). “Like a partnership” an LLC “is a citizen of every state of which its
4 owners/members are citizens.” *Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d
5 894, 899 (9th Cir. 2006). Defendants’ removal notice does not show that the members of
6 Morgan Stanley Delta Holdings LLC are citizens of states other than California.

7 Consequently, defendants must show cause in a writing filed by October 5, 2018, as
8 to why this case should not be remanded to state court for lack of subject matter
9 jurisdiction. If plaintiffs wish to respond, they may file a responding brief by October 12.

10 Finally, all parties are asked to file a determination by October 9 as to whether they
11 consent to or decline the jurisdiction of a magistrate judge under 28 U.S.C. § 636(c).

12 **IT IS SO ORDERED.**

13 Dated: September 25, 2018

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16 NATHANAEL M. COUSINS
17 United States Magistrate Judge
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